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Attorneys for Plaintiffs  
BROADCOM CORPORATION and AVAGO  
TECHNOLOGIES INTERNATIONAL SALES  
PTE. LIMITED.

**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

**BROADCOM CORPORATION AND  
AVAGO TECHNOLOGIES  
INTERNATIONAL SALES PTE. LIMITED,**  
  
Plaintiffs,  
  
v.  
  
**NETFLIX, INC.,**  
  
Defendant.

Case No. 8:20-cv-00529-JVS-ADS

**MEMORANDUM OF MOOTNESS ISO  
PLAINTIFFS' OPPOSITION TO  
NETFLIX'S MOTION TO DISMISS  
UNDER RULE 12(B)(6)**

Judge: Hon. James V. Selna  
Hearing Date: July 13, 2020  
Time: 1:30 p.m.

Memorandum of Mootness ISO  
Pls.' Opp'n to Motion to  
Dismiss

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Courtroom: 10C, 10th Floor

1 Plaintiffs Broadcom Corporation and Avago Technologies International Sales  
 2 Pte. Limited (collectively, “Broadcom”) respectfully submit that Defendant  
 3 Netflix, Inc.’s Motion to Dismiss (ECF Nos. 43 (Notice), 44 (Memorandum in  
 4 Support) is moot.

5 Prior to this filing, Broadcom filed an Amended Complaint (ECF No. 52)  
 6 pursuant to Rule 15(a)(1)(B) of the Federal Rules of Civil Procedure. As the  
 7 United States Court of Appeals for the Ninth Circuit has repeatedly held, “an  
 8 ‘amended complaint supersedes the original, the latter being treated thereafter as  
 9 non-existent.’” *Ramirez v. Cty. of San Bernadino*, 806 F.3d 1002, 1008 (9th Cir.  
 10 2015) (quoting *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997),  
 11 *overruled on other grounds by Lacey v. Maricopa Cty.*, 693 F.3d 896, 927–28 (9th Cir.  
 12 2012)) (citing *Valadez-Lopez v. Chertoff*, 656 F.3d 851, 857 (9th Cir. 2011)). “In  
 13 other words, ‘the original pleading no longer performs any function . . . .’” *Id.*  
 14 (quoting *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992)).

15 Thus, the Amended Complaint moots Defendant Netflix, Inc.’s pending  
 16 motion to dismiss. *Safari Club Int’l v. Rudolph*, No. SACV 13-1989 JVS (ANx),  
 17 2014 WL 12595128, at \*2 (C.D. Cal. Feb. 24, 2014) (Selna, J.) (citing *Bisson v. Bank*  
 18 *of Am., N.A.*, No. C12-0995 JLR, 2012 WL 5866309, at \*1 (W.D. Wash. Nov. 16,  
 19 2012)). Even where, as here, the Amended Complaint asserts additional causes of  
 20 action and leaves the underlying existing causes of action almost entirely the same  
 21 as those in the Original Complaint, the Amended Complaint renders the motion to  
 22 dismiss moot. *Id.*

23 If Defendant Netflix, Inc. files a new motion to dismiss attacking the  
 24 now-operative Amended Complaint, Broadcom will respond to the substance of  
 25 that motion in accordance with the Federal Rules of Civil Procedure and the Local  
 26 Rules of this Court.

1 For the foregoing reasons, Broadcom respectfully submits that its Amended  
2 Complaint renders Defendant Netflix, Inc.'s motion to dismiss moot and asks the  
3 Court to deny that motion as moot.

4 Dated: June 22, 2020

THOMPSON & KNIGHT LLP

6 By: /s/ Bruce S. Sostek

7 Bruce S. Sostek  
8 Attorney for Plaintiffs  
9 BROADCOM CORPORATION  
10 and AVAGO  
11 TECHNOLOGIES  
12 INTERNATIONAL SALES  
13 PTE. LIMITED  
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